

AMENDED IN ASSEMBLY AUGUST 1, 2002

AMENDED IN SENATE JANUARY 16, 2002

SENATE BILL

No. 97

Introduced by Senator ~~Sher~~ Kuehl

January 18, 2001

~~An act to repeal and add Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code, relating to electronic transactions. An act to amend Section 155 of the Family Code, relating to support orders.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 97, as amended, ~~Sher~~ Kuehl. ~~Electronic transactions- Support orders.~~

Existing law provides that, unless the judgment provides otherwise, if a money judgment is payable in installments, interest commences to accrue as to each installment on the date the installment becomes due.

The California Court of Appeal, in Dupont v. Dupont (2001) 88 Cal.App.4th 192, held that a money judgment for child support arrearages that is payable in installments and does not otherwise provide for a different computation of interest is subject to the provision described above.

This bill would provide that, for the purposes of the provision of existing law described above, only the initial support order or judgment, whether temporary or final, shall be considered an installment judgment. The bill would also provide that a support order or other order or notice issued, which sets forth the amount of support owed for prior periods of time or establishes a periodic payment to liquidate the support owed for prior periods, may not be considered a

money judgment for purposes of that provision. The bill would include a statement of legislative findings and declarations.

Existing law requires the Director of Child Support Services to conduct an analytic evaluation of the current amount of uncollected child support and to consider factors that may influence collections.

The bill would require the Department of Child Support Services to submit to the Legislature the analysis described above, on or before March 31, 2003, and to include in the analysis its recommendations for improving efficiency in the collection of child support.

~~The existing Uniform Electronic Transactions Act governs the effect of transactions entered into electronically, and provides, among other things, that a record or signature may not be denied legal effect or enforceability solely because it is in electronic format.~~

~~Federal law, the Electronic Signatures in Global and National Commerce Act, governs the acceptance of electronic signatures in commerce, but permits a state statute to modify, limit, or supersede these provisions under certain conditions.~~

~~This bill would revise and recast the provisions of the Uniform Electronic Transactions Act. The bill would also enact the Consumer Electronic Transactions Act, which would expressly modify, limit, or supersede specified provisions of the federal act governing electronic signatures.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~—yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Title 2.5 (commencing with Section 1633.1) of~~
- 2 ~~SECTION 1. (a) The Legislature finds and declares the~~
- 3 ~~following:~~
- 4 (1) *The California Court of Appeal erred in its holding, in*
- 5 *Dupont v. Dupont (2001) 88 Cal.App.4th 192, that a child support*
- 6 *order which simply calculates the amount of past due support owed*
- 7 *under a prior order and sets a monthly amount to reduce the past*
- 8 *due support constitutes a new installment judgment.*
- 9 (2) *The decision in Dupont misapplies Section 155 of the*
- 10 *Family Code and Section 685.020 of the Code of Civil Procedure*
- 11 *in that it halts the accrual of interest on an unpaid money judgment*
- 12 *simply because the matter is brought before the court, for*
- 13 *enforcement of the underlying order or otherwise, and the court*

1 *determines the total unpaid balance owed on the money judgment*
2 *and sets an amount to liquidate that unpaid balance.*

3 *(3) The decision in Dupont, because it is based on the court's*
4 *equitable power, applies on a case-by-case basis only, which could*
5 *result in the disparate application of the decision from order to*
6 *order, court to court, and county to county.*

7 *(4) It is therefore the intent of the Legislature to abrogate the*
8 *holding of the California Court of Appeal in Dupont v. Dupont, to*
9 *clarify the intent of the Legislature as to how interest is to be*
10 *applied on money judgments, and to allow the Department of Child*
11 *Support Services to address the issue of interest as part of a*
12 *comprehensive approach to maximize collections for families.*

13 *(b) (1) The Legislature further finds that the Department of*
14 *Child Support Services is completing, pursuant to subdivision (b)*
15 *of Section 17602 of the Family Code, an analytic evaluation of the*
16 *current amount of uncollected child support debt and the factors*
17 *that may influence collections. The analysis will address the type*
18 *and amount of child support owed, and how and why the debts have*
19 *accrued. The analysis will include comprehensive, program wide*
20 *recommendations for strategies to increase collections on*
21 *arrearages and prevent the accumulation on arrearages. Included*
22 *in this analysis will be an examination of the effect interest on child*
23 *support obligations has on collections and efforts to achieve*
24 *self-sufficiency.*

25 *(2) The Department of Child Support Services shall submit to*
26 *the Legislature the analysis prepared pursuant to subdivision (b)*
27 *of Section 17602 of the Family Code, including recommendations*
28 *for improving the efficient collection of child support, on or before*
29 *March 31, 2003.*

30 *SEC. 2. Section 155 of the Family Code is amended to read:*

31 *155. "Support order" means a judgment or order of support*
32 *in favor of an obligee, whether temporary or final, or subject to*
33 *modification, termination, or remission, regardless of the kind of*
34 *action or proceeding in which it is entered. For the purposes of*
35 *Section 685.020 of the Code of Civil Procedure, only the initial*
36 *support order or judgment, whether temporary or final, shall be*
37 *considered an installment judgment. No support order or other*
38 *order or notice issued, which sets forth the amount of support owed*
39 *for prior periods of time or establishes a periodic payment to*
40 *liquidate the support owed for prior periods, shall be considered*

1 *a money judgment for purposes of subdivision (b) of Section*
2 *685.020 of the Code of Civil Procedure.*

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**All matter omitted in this version of the
bill appears in the bill as amended in the
Senate, July 16, 2002 (JR 11)**

